CrA 1210/97 (2)

II-189 / (Jail)
. J. P. R. 11/94/2,000

CF0000061549

APPEAL OF PRISONER Division Bench (Criminal)

No. क्रमांक 5386/95 Name ① रामरतन S/o परसराम गोंड 20 वर्ष

Father's name ② श्यामबाई W/o रामरतन गोंड 48 वर्ष

Residence [illegible] खरी, थाना- दुर्ग Age जिला- रायपुर (म.प्र.)

Sentenced to [illegible] कारावास On 21/4/97

Under section 302 भा.दं.वि. by प्रथम अपर सत्र न्यायालय रायपुर (म.प्र.)

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1. Date of Application for copy of Judgement .....
2. Date on which copy received .....
3. Date on which Appeal sent ..... 7/6/97 .....
4. Whether the prisoner wishes to be represented or not – Yes / No

No. ..... Name ① रामरतन S/o परसराम गोंड
② श्यामाबाई W/o रामरतन गोंड

Confined in ..... केन्द्रीय ..... Jail ..... रायपुर (म.प्र.) .....

No. 184/मिसि/97 Dated 7/6/1997

Forwarded to the ~~CHIEF JUDICIAL MAGISTRATE~~ अतिरिक्त पंजीयक प्रधान्य माननीय उच्च न्यायालय मध्य जबलपुर/ together which a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

संलग्न :- SF No - 12/98 की छायाप्रति/

Superintendent,
Central Jail, Raipur. (M.P.)
Jail

Date of receipt in ..... office .....

Date of receipt record to accompany the .....

Memo of Appeal to the Appellate court .....

No ..... Dated 1997

Forwarded to the ..... JABALPUR .....

Date of receipt in Appellate Court ..... 12 JUN 97 454 .....

High Court of Madhya Pradesh
Reg. No.
Recpt Clerk
High Court, Jabalpur

(P. T. O.)

(16)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक G.A. (210/97 सन् ~~200~~

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench: -

Hon'ble Mr. L.C. Bhadoo and
Hon'ble Mr. Dhirendra Mishra, JJ.

19-4-2006

Mr. Satyendra Sahu, counsel for the appellants.

Mr. U.N.S. Deo, Additional Public Prosecutor with Mr. Ravindra Agrawal, Panel Lawyer for the State/respondent.

Oral judgment dictated on *Dais*.

Per L.C. Bhadoo, J: -

By this appeal under Section 374 (2) of the Code of Criminal Procedure, the appellants namely, Ramratan & Shyama Bai have questioned legality and correctness of the judgment of conviction and order of sentence dated 21-4-97 passed by the 1st Additional Sessions Judge, Raipur, in Sessions Trial No.12/95, whereby learned Additional Sessions Judge after holding the accused/appellants guilty for commission of offence under Section 302 of the Indian Penal Code for committing the murder of Gayatri Bai, sentenced each of the accused to undergo imprisonment for life.

The case of the prosecution necessary for the disposal of this appeal is that Gayatri Bai was the daughter-in-law of the accused/ appellants. She was married to Dukalu, son of the accused/appellants, about 8-10 years before the date of incident. She used to reside with her husband in Kanesar. However, since last 4-5 years, she was residing with the accused/appellants. The behaviour of the accused/appellants with deceased Gayatri Bai was not good. On 16-11-94, some altercation took place between deceased Gayatri Bai and accused/appellant Shyama Bai.

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आदेश पत्रक

मामला क्रमांक G.A.120/97 सन् ~~200~~

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Accused/appellant Ramratan said to have scolded Gayatri Bai. One Radha Bai prepared some medicine for Rukmani Bai who had delivered child recently. Thereafter, Shyama Bai after grinding the seeds of glycoside and mixing the same in water gave it to Gayatri Bai for consumption. Shyama Bai asked Gayatri Bai 2-3 times to drink water on which she consumed water. After some time, she started vomiting and thereafter, she went inside the room where she became unconscious. Accused/appellants Ramratan & Shyama Bai hanged her with the help of a cloth on the wooden beam in the said room. Thereafter, accused Ramratan left for the agricultural field and when he returned in the evening, he informed the villagers. Merg intimation Ex.P-11 was given by Ramratan on 17-11-94 at 11.40 a.m. that on 16-11-94 Gayatri Bai was in the house, he had gone to village: Kanesar, when he returned in the evening at about 7 p.m., his wife Shyama Bai informed him about the death of Gayatri Bai in the room and that there is a rope on the neck of Gayatri Bai. He went inside, saw Gayatri Bai and informed the villagers.

Receiving this merg intimation, Anil Sharma (PW-17), Investigating Officer, registered merg No.31/94 on 17-11-94. He prepared the Panchnama (Ex.P-3) of the dead body of Gayatri Bai on 18-11-94. Under Ex.P2, he took into possession clothes of the deceased and also the cloth which was used for hanging Gayatri Bai. The dead body of Gayatri Bai was sent for post-mortem examination to Primary Health Centre, Chhura, where Dr. Sanjay Wankhede (PW-11) conducted post-mortem and prepared the post-mortem report (Ex.P-5) in which he opined that "in my opinion, probable cause of death is asphyxia which is due to hanging. Viscera are preserved for chemical examination. Time since death

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	appears to be 2 to 4 days". He also noticed that there was a ligature mark on the upper part of neck, there was a contusion mark on the neck and another contusion mark below injury No.1. The Investigating Officer prepared the site plan Ex.P-8. Under Ex.P-12, the Investigating Officer took into possession, the earth from the place where Gayatri Bai had vomited. He also took into possession plain soil from the same place. He also took into possession under Ex.P-13, the earth from the place where some liquid substance fell from the nose of the deceased. He also took into possession in a plastic bottle the brown colour liquid and two seeds which were in a tumbler. Under Ex.P-14, on being produced by accused Ramratan, five wild herbs and five glycoside seeds were taken into possession. Based on the post-mortem report, Station House Officer Anil Sharma registered offence under Section 302 of the I.P.C. under F.I.R. Ex.P-16. Visceras and earth which were taken into possession by the Investigating Officer and the glycoside seeds were sent for chemical examination to Forensic Science Laboratory, Sagar, from where report Ex.P-20 was received. As per report Ex.P-20, in viscera of deceased Gayatri Bai of liver, lung, kidney, spleen, heart, vaginal part, stomach, small & large intestine; glycoside seeds and water which was taken into possession from the tumbler were found to be glycoside poison. After completion of investigation, charge sheet was filed against the accused/appellants in the Court of Judicial Magistrate, First Class, Gariaband, who in turn, committed the case to the Sessions Judge, Raipur, from where learned 1st Additional Sessions Judge, Raipur, received the case on transfer for trial.	

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The prosecution in order to establish charge against the accused persons examined 17 witnesses. Statements of the accused persons were recorded under Section 313 of the Cr.P.C. in which they simply denied the prosecution evidence or stated that they do not know about the prosecution evidence appearing against them. Apart from that, accused Ramratan also stated that he does not know about the incident, he had gone to village Kanesar for giving invitation card and when he returned in the evening, he came to know about the incident. Whereas, accused/ appellant Shyama Bai also stated that she went to the pond and she was not at the residence at the time of incident.

Learned Additional Sessions Judge after hearing counsel for respective parties, convicted and sentenced the accused as mentioned in para 1 of this judgment.

We have heard Mr. Satyendra Sahu, learned counsel for the accused/appellants and Mr. U.N.S. Deo, learned Additional Public Prosecutor with Mr. Ravindra Agrawal, learned Panel Lawyer on behalf of the State/respondent.

Mr. Sahu argued that there is no legal, clinching and cogent evidence to connect the accused/appellants with the crime in question. The evidence of Mohan (PW-4) does not inspire confidence, as he gave this evidence under police threat because the police threatened him that if he will not give the evidence, then he will be roped in a crime. He further argued that similarly, the evidence of Rukmani Bai (PW-7) also does not inspire confidence and as far as her evidence, Ramratan was not in house and there was no reason for the accused/appellants to commit the murder

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of their own daughter-in-law. The prosecution has not been able to establish motive behind the crime.

On the other hand, Mr. U.N.S. Deo, learned Additional Public Prosecutor, supported the trial Court's judgment.

Having heard learned counsel for the parties, we have perused the evidence available on record and relevant documents.

As per the evidence of Dr. Sanjay Wankhede (PW-11) who conducted post-mortem on 19-11-94, there was a red colour froth in the nose of the deceased, blisters were present on the body, nails become pale and there was a ligature mark on the neck on account of hanging in the width of 2 cms. round the neck. Knot of the cloth which was used for the purpose of hanging was on the right side, its mark was of red colour and there was mark on the thyroid cartilage. Injury No.1 was in the size of 1 cms. x 1 cms., 2 cms. below the jaw round the neck and same was red & brown in colour. Injury No.2 was 3 cms. below injury No.1 in the size of 1 cms. x 1 cms. and same was also red & brown in colour. Blood was present in the left chamber of heart and in vessels & muscles of throat. There was reddishness on neck and mouth. In his opinion, the cause of death was asphyxia on account of hanging.

As per the F.S.L. report (Ex.P-20), viscera, which were preserved from the body of deceased Gayatri Bai by the doctor conducting post-mortem, as also the seeds, which were taken into possession were found to be containing glycoside poison. Similarly, water, which was taken into possession from the tumbler from the house of the accused persons as also the seeds were also of glycoside poison. As per the evidence, there

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were signs of vomiting on the place of occurrence and earth of that place was taken into possession by the Investigating Officer.

Mohan (PW-4), who is son of the accused/appellants and younger brother of the husband of the deceased, has stated in his evidence that the deceased vomited after consuming water, which was given by Shyama Bai to Gayatri Bai for consumption. He has further stated that in the morning of the day of incident, there was altercation between Shyama Bai, his mother, and deceased Gayatri Bai. Thereafter, he left for the field for grazing male buffalo. He returned at about 10 a.m. for the purpose of taking meal, he saw that deceased Gayatri Bai was going inside the room while weeping, his mother went for the purpose of taking bath to the pond and his father Ramratan went to the forest for collecting herbs. Thereafter, his mother returned from the pond and gave water mixed with crushed glycoside seeds in a tumbler to Gayatri Bai. After consuming that water, Gayatri Bai went for sleep and thereafter, she vomited. The glycoside seeds were brought by his father and given to his mother. At the time when the mixture of glycoside was given to Gayatri Bai by his mother, his father was also present. After vomiting, his sister-in-law Gayatri Bai became unconscious and thereafter, his mother Shyama Bai tied a rope round the neck of Gayatri Bai and his father tied the said rope with a wooden beam of the room for hanging Gayatri Bai. After hanging Gayatri Bai with the wooden beam, Ramratan closed the door of the room and left for the field, and his mother went towards the vicinity of the village. His father returned in the evening. The door of the room was opened, the rope by which Gayatri Bai was hanging was loosened, and his father called the people of the vicinity and by that time his sister-in-law was

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already dead. At the time when his sister-in-law was hanged by his father, she was alive. In cross-examination of this witness, defence has not been able to elicit any circumstance, which establishes that this witness had any animosity against the accused/appellants. He is none else than son of the appellants. His evidence is corroborated to a great extent by the evidence of Rukmani Bai (PW-7), who is daughter-in-law of the accused/appellants and wife of son of the accused/appellants namely, Dashrath. There is nothing in the cross-examination that he deposed against his parents under the threat of police.

Rukmani Bai (PW-7) has stated in her evidence that during the month of Kartik, Gayatri Bai died, at that time she (PW-7) delivered a child three days before the incident. On the fateful day, when on being asked by her father-in-law & mother-in-law, Gayatri Bai did not woke up, but on asking by Dukalu, husband of Gayatri Bai, she woke up and did the domestic work. Radha Bai prepared medicine for her (PW-7). Her mother-in-law went for taking bath to the pond and after returning she grinded something and mixed the same with water and that water was given to Gayatri Bai for drinking. On seeing this, she became frightened and went inside her room. At that time, her father-in-law went to the agricultural field. After consumption of water, Gayatri Bai started vomiting and thereafter, her father-in-law came. Her father-in-law & mother-in-law discussed something among themselves and entered in the room of Gayatri Bai at about 12 noon, they came out of the room at about 4 p.m., and her father-in-law again left for the field. In the evening, her brothers-in-law called the villagers.

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Therefore, asking Gayatri Bai to consume water mixed with some substance was seen by Rukmani Bai (PW-7) also. Thereafter, Gayatri Bai started vomiting and she went inside the room where both the accused/ appellants remained inside the room for quite some time. Hence, the evidence of Mohan has been corroborated by the evidence of Rukmani Bai (PW-7).

As per the evidence of Sukhuram (PW-9), father of the deceased & Jahura Bai (PW-1), mother of the deceased, relations of accused/ appellants with the deceased were not cordial, they used to harass her and the deceased used to tell about the harassment to her parents.

Therefore, from the evidence of above witnesses, it is established that in the first instance, accused Ramratan brought glycoside poisonous seeds, which were crushed & grinded by accused Shyama Bai and after mixing the same in water, it was given to Gayatri Bai to consume. Gayatri Bai consumed the same, thereafter, she started vomiting and she became unconscious after going inside the room. The said five sample seeds of glycoside were taken into possession by the investigating Officer. As per the report of viscera and seeds, viscera of the deceased were found containing poisonous substance i.e. glycoside. Mohan (PW-4) has categorically stated in his evidence that his mother Shyama Bai tied a cloth on the neck of Gayatri Bai and his father Ramratan hanged Gayatri Bai on the wooden beam with the help of the cloth which was tied on the neck of Gayatri Bai, and as per the medical evidence there were injuries on the neck of Gayatri Bai. As per the doctor's evidence, Gayatri Bai died as a result of asphyxia. There is no reason to disbelieve the evidence of Mohan (PW-4) & Rukmani Bai (PW-7) who are son and daughter-in-law of

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the accused/appellants, respectively. Nothing has been brought on record, which shows that these witnesses, who are family members of the accused/appellants, have any animosity against the appellants.

As far as the argument advanced by learned counsel for the appellants that as per the evidence of Rukmani Bai, accused/appellant Ramratan had already went to the field, it has come in the evidence of Mohan & Rukmani Bai that after providing seeds to Gayatri Bai, accused Ramratan left for the field and thereafter, he came and when Gayatri Bai became unconscious after consumption of glycoside poison, both the accused/appellants hanged her with a wooden beam with the help of a cloth, which was taken into possession by Investigating Officer Anil Sharma (PW-17). As per the medical report, Gayatri Bai died of asphyxia on account of hanging.

For the foregoing reasons, we are of the considered opinion that there is no illegality or infirmity in the judgment of the trial Court and therefore, there is no reason before us to interfere with conviction and sentence imposed upon the accused/appellants by the trial Court. The appeal, being devoid of merit, is liable to be dismissed and it is hereby dismissed.

Sd/-
L.C. Bhadoo
Judge

Sd/-
DHIRENDRA MISHRA
Judge

Soma

31/5/06

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